

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MALCOLM NUNES,

Plaintiff,

v.

DEUTSCHE BANK,

Defendant.

CIVIL ACTION

NO. 1:11-CV-3630-CAP

O R D E R

This matter is before the court on the plaintiff's motion for preliminary injunction [Doc. No. 2]. The plaintiff filed this action "for preliminary and permanent injunctive relief and for money damages" under the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692g.¹

Nunes claims that a third-party debt collector (not named as a defendant) is "representing" Deutsche Bank in the collection of a debt it supposedly owned by Deutsch Bank. Nunes "contends that a fraud is being perpetrated on behalf of [Deutsche Bank], and that [Deutsche Bank] may not even own" the debt. Compl. ¶ 2 [Doc. No. 1]. Nunes claims he mailed Deutsche Bank a "request for validation of debt" pursuant the FDCPA, and Deutsche Bank failed to respond. Id. ¶¶ 7-8. The third-party debt collector has a garnishment action against Nunes, and Nunes has paid \$40 thousand to the debt

¹ The plaintiff also alleges a fraud claim under Georgia law that is not at issue in this motion.

collector. The debt collector told Nunes that it is "collecting the money on [Deutsch Bank] behalf and giving the money to [Deutsche Bank]." Id. ¶ 13.

Count 1 of the complaint alleges the defendant's failure to respond to the validation letter violated the FDCPA and seeks "a preliminary injunction against all garnishment activities by [the defendant or any other entity] until ownership of this debt can be resolved." Id. ¶¶ 9-10. However, "equitable relief is not available to an individual under the civil liability section of the [FDCPA]" Sibley v. Fulton DeKalb Collection Serv., 677 F.2d 830, 834 (11th Cir. 1982).

An injunction is a type of equitable relief, and the only basis for the injunction the plaintiff has alleged is under the FDCPA. Accordingly, the plaintiff's motion [Doc. No. 2] must be DENIED.

SO ORDERED, this 29th day of November, 2011.

/s/ Charles A. Pannell, Jr.
CHARLES A. PANNELL, JR.
United States District Judge